

KANE LAW FIRM

Brad S. Kane (SBN 151547)
bkane@kanelaw.la
1154 S. Crescent Heights. Blvd.
Los Angeles, CA 90035
Tel: (323) 697-9840
Fax: (323) 571-3579

Trey Brown (SBN 314469)
trey.brown@vixenmediagroup.com
11337 Ventura Blvd.
Studio City, CA 91604

Attorneys for Defendants
VXN GROUP LLC and MIKE MILLER

**UNITED STATES DISTRICT COURT
CENTRAL DISTRICT OF CALIFORNIA
WESTERN DIVISION**

MACKENZIE ANNE THOMA, a.k.a.
KENZIE ANNE, an individual and on
behalf of all others similarly situated,

Plaintiff,

v.

VXN GROUP LLC, a Delaware
limited liability company; MIKE
MILLER, an individual,

Defendants.

Case No. **2:23-cv-04901 WLH (AGRx)**

**APPLICATION FOR LEAVE TO
FILE UNDER SEAL DEFENDANTS'
MOTION FOR SUMMARY
JUDGMENT AND CERTAIN OF
PLAINTIFF'S TAX RECORDS AND
DEFENDANTS' MOTION FOR
SUMMARY JUDGMENT**

**APPLICATION FOR LEAVE TO FILE UNDER SEAL DEFENDANTS'
MOTION FOR SUMMARY JUDGMENT AND CERTAIN TAX
RECORDS OF PLAINTIFF MACKENZIE ANNE THOMA**

Pursuant to the parties Stipulated Protective Order [Dkt. 92, at §12.3] and Civil Local Rule 79-5, Defendants VXN Group LLC and Mike Miller (“Defendants”) hereby respectfully apply for leave of Court for an order sealing Defendants’ Motion for Summary Judgment and certain tax records of Plaintiff Mackenzie Anne Thoma which contain information designated as “confidential” by Plaintiff’s counsel, and states as follows:

On July 9, 2024, after briefing Plaintiff’s privacy concerns, the Court ordered the parties to “file a stipulation and proposed protective order[.]” [Dkt. 89, at 4]. The parties submitted, [Dkt. 91], and the Court entered, a Stipulated Protective Order on July 17. [Dkt. 92]. It covers “personal identifying information, financial, and/or proprietary information.” *Id.* at § B. On August 29, 2024 this Court entered an order, which in relevant part, granted “Plaintiff’s request to designate documents produced in response to the subpoena to Artists Business Management Group[] as confidential pursuant to the protective order[.]” [Dkt. 104, at 3].

Larry Lerner, the principal owner of Artists Business Management Group (“ABMG”), and Plaintiff’s former accountant, sat for a deposition on September 10, 2024. Declaration of Trey Brown In Support of Defendants’ Application For Leave to File Under Seal (“**Brown Decl.**”), at ¶ 5. During that deposition, Lerner produced Plaintiff’s federal tax returns for the years 2020, 2021, and 2022. *Id.* As noted above, this Court has ordered all documents produced in response to the subpoena served on ABMG as confidential. Defendants, however, intend to attach excerpts from Plaintiff’s tax returns as exhibits in support of Defendants’ Motion for Summary Judgment. Further, Defendants intend to reference specific financial information from the tax returns in text of the MSJ. *See Adeyemi v. Garland*, No. 21-2107, 2024 WL 3087940, at *1 (C.D. Cal. Mar. 26, 2024) (citing *Kamakana v.*

1 City & Cnty. of Honolulu, 447 F.3d 1172, 1178 (9th Cir. 2006)) (“There is a strong
2 presumption against filing documents under seal.”).

3 Defendants “may disclose any information or item designated
4 ‘CONFIDENTIAL’” to, *inter alia*, “the court and its personnel[.]” [Dkt. 92 at §
5 7.2(d)]. “A party that seeks to file under seal any Protected Material must comply
6 with Civil Local Rule 79-5. Protected Material may only be filed under seal
7 pursuant to a court order authorizing the sealing of the specific Protected Material
8 at issue.” *Id.* at § 12.3. When “someone else has designated these documents as
9 confidential pursuant to a protective order,” L.R. 79-5.2.2, a specific procedure
10 applies. *See also id.* 79-5.2.2(a)(1) (“That the information may have been
11 designated confidential pursuant to a protective order is not sufficient justification
12 for filing under seal[.]”).

13 At least 3 days before seeking to file under seal a document containing
14 information previously designated as confidential by another pursuant
15 to a protective order, the Filing Party must confer with the person that
16 designated the material confidential (the “Designating Party”) in an
17 attempt to eliminate or minimize the need for filing under seal by means
18 of redaction. If the document cannot be suitably redacted by agreement,
the Filing Party may file an Application pursuant to subsection (a), but
the supporting declaration must identify the material previously
designated as confidential, as well as the Designating Party, and must
describe in detail the efforts made to resolve the issue.

19 L.R. 79-5.2.2(b).

20 Thus, on October 31, 2024, counsel for the parties conferred on what
21 portions of Plaintiff’s tax returns could be redacted. Declaration of Trey
22 Brown In Support of Defendants’ Application For Leave to File Under Seal
23 (“**Brown Decl.**”), at ¶ 8. Ultimately, the parties recognized that no agreement
24 would be reached regarding the scope of appropriate redactions, as Plaintiff’s
25 counsel insisted that anything related to Plaintiff’s personal financial
26 information must be filed under seal. **Brown Decl.**, at ¶ 8, Ex. A. However,
27 Plaintiff’s and Defense counsel verbally agreed to stipulate to the filing of
28 documents produced by ABMG under seal. *Id.*

1 As no “suitabl[e]” agreement was reached, Defendants thus proceed
2 under subsection (a) of the Civil Local Rules. That procedure requires that
3 Defendants file an application that “describe the nature of the information that
4 the Filing Party asserts should be closed to public inspection,” L.R. 79-
5 5.2.2(a), which must also include a declaration detailing the parties’ efforts to
6 resolve the issue, *see id.* 79-5.2.2(a)(i); *id.* 79-5.2.2(b), a proposed order, and
7 both redacted and unredacted copies of the materials. *Id.* 79-5.2.2(a)(ii)–(iv).

8 Defendants have complied with these formalities, conferred with
9 Plaintiff’s counsel, and recommended redactions to the tax records which
10 Plaintiff has rejected. *See Id.* As such, Defendants now file this application
11 recounting those steps, along with a proposed order adopting the Defendants’
12 proposed redactions to specific financial and personally identifying
13 information. **Brown Decl.**, at ¶ 9. Both the redacted and unredacted copies of
14 (i) relevant excerpts from Plaintiff’s 2020, 2021, and 2022 federal tax returns;
15 and (ii) the MSJ have been filed. **Brown Decl.**, ¶¶ 10–13, Exs. B–E. Thus,
16 Defendants seek leave to file the following materials under seal in support of
17 their Motion for Summary Judgment:

Description	Produced By	Status	Exhibit
Excerpts from Plaintiff’s 2020 Federal Tax Return	L. Lerner	Confidential	B
Excerpts from Plaintiff’s 2021 Federal Tax Return	L. Lerner	N/A	C
Excerpts from Plaintiff’s 2022 Federal Tax Return	L. Lerner	Confidential	D
Motion For Summary Judgment	Defendants	Confidential	E

25
26 Accordingly, Defendants respectfully request that the Court grant it
27 leave to file the above-listed documents under seal.
28

1
2
3
4

Dated: November 12, 2024

Respectfully submitted,

5
6
7
8

By: /s/ Trey Brown

Trey Brown
Brad Kane
Attorneys for Defendants
VXN Group LLC and Mike Miller

9
10
11
12
13
14
15
16
17
18
19
20
21
22
23
24
25
26
27
28

CERTIFICATE OF CONFERRAL

This motion is made following the conference of counsel pursuant to L.R. 79-5 which took place on October 31, 2024.

By: /s/ *Trey Brown*
Trey Brown

KANE LAW FIRM
11154 S. Crescent Heights Blvd.
Los Angeles, CA 90035